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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,388	06/13/2001	Yoshikazu Shingu	SHC0131	5198

832 7590 06/05/2002

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FORT WAYNE, IN 46802

EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,388

Applicant(s)

SHINGU ET AL.

Examiner

Jamisue A. Webb

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HC

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. With respect to Claim 1: the phrase “inner surfaces thereof” using in lines 13, 16 and 18 is indefinite. It is unclear what “thereof” is referring to, thereof what?
4. Claim 1 recites the limitation "on inner surfaces thereof" in line 13. There is insufficient antecedent basis for this limitation in the claim. The claim has not positively claimed any inner surfaces in the claim, therefore it is unclear what inner surfaces these are.
5. Claim 1 recites the limitation "said nonwoven fabric partially extending outward from circumferentially outer side region" in line 15. There is insufficient antecedent basis for this limitation in the claim. The claim has never positively claimed the nonwoven fabric partially extending. If the applicant meant to positively claim the above, the examiner suggests the wording “said nonwoven fabric partially extends outward....” Furthermore “circumferentially outer side regions” have not positively been claimed previously in the claim.
6. With respect to Claim 1: the phrase “in turn” is unclear and indefinite. The examiner is unclear as to how this is limiting the claim, or what this is trying to refer to.
7. With respect to Claim 1: the phrase “with male mechanical fastener members” is unclear. Does this mean that the fasteners are attached, to, or incorporated into the wings?

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8. Claim 1 recites the limitation "inner regions" in line 19. There is insufficient antecedent basis for this limitation in the claim.
9. Claims 1 and 2 recites the limitations "said outer side regions" and "said inner side regions". There is insufficient antecedent basis for this limitation in the claim.
10. With respect to Claim 3: the phrase "peelably engaged" is indefinite. The word "peelably engaged" is not in the English dictionary, therefore it is unclear to the examiner how something can be peelably engaged.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

- SW* 12. ¹⁻³ Claims rejected under 35 U.S.C. 102(e) as being anticipated by Lavon et al. (6,050,985)

13. With respect to Claim 1: Lavon discloses the use of a diaper (20) with a topsheet (24), backsheet (26), core (28), first waist region (40), second waist region (42), and crotch region located there between (See Figure 3). Lavon discloses the use of wings (52) formed on side portions of one waist region, with mechanical fasteners (34) located on the outside edge (column 19, lines 58-68). Lavon discloses the wings being thermoplastic synthetic polymers

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(column 10, lines 35-45) and has a pattern that is formed on the wings being formed by thermobonding or embossing (column 11, lines 55-58), the examiner considers the embossed or thermobonded pattern, to be a plurality of fusion spots, as seen in Figures 3 and 4, only the outside of the wings have the embossed pattern, and the inner portion does not have an embossed or thermobonded portion, therefore the outer side regions have a greater amount than the inner portions.

14. With respect to Claim 2: It is the examiner's position that embossing of the material will cause the material to be stiffer, due to the fact that it will melt the material, therefore due to the fact that, as disclosed above the outer region is embossed or thermobonded and the inner region is not, then it is inherent that the outer region is stiffer than the inner region.

15. With respect to Claim 3: The fasteners (24) are made of a separate material than the wings, therefore can be peelably released from the wings, if pulled hard enough.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamamoto et al (5,069,678), Buell et al. (5,674,216 and 5,931,827), Kling et al. (6,340,782) and Lancaster et al. (5,342,344) disclose the use of diapers with wings, that contain fusion bonds or spots.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

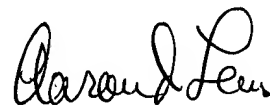
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If attempts to reach the examiner by telephone are unsuccessful, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw


June 1, 2002



Aaron J. Lewis
Primary Examiner